

1 EDMUND G. BROWN JR.
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 State Bar No. 132645
110 West A Street, Suite 1100
4 San Diego, CA 92101
Telephone: (619) 645-2105
5 Facsimile: (619) 645-2061
Attorneys for Complainant

6
7 **BEFORE THE**
8 **BOARD OF REGISTERED NURSING**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. *2011-459*

12 **ALICE LOIS JEFFERSON-TOLBERT**

A C C U S A T I O N

13 **909 Peel Castle Lane**
14 **Austell, GA 30106**

15 **Registered Nurse License No. 688167**

Respondent.

16 Complainant alleges:

17 **PARTIES**

18 1. Louise R. Bailey, M.E.D., RN ("Complainant") brings this Accusation solely in her
19 official capacity as the Interim Executive Officer of the Board of Registered Nursing ("Board"),
20 Department of Consumer Affairs.

21 2. On or about September 5, 2006, the Board issued Registered Nurse License Number
22 688167 to Alice Lois Jefferson-Tolbert ("Respondent"). The Registered Nurse License has been
23 active at all times relevant herein and expires on April 30, 2012, unless renewed.

24 **JURISDICTION AND STATUTORY PROVISIONS**

25 3. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent
26 part, that the Board may discipline any licensee, including a licensee holding a temporary or an
27 inactive license, for any reason provided in Article 3 (commencing with Code section 2750) of
28 the Nursing Practice Act.

1 4. Section 2761 of the Code provides grounds for disciplinary action:

2 "The board may take disciplinary action against a certified or licensed
3 nurse or deny an application for a certificate or license for any of the following:

4 (a) Unprofessional conduct, which includes, but is not limited to, the
5 following:

6 (1) Incompetence, or gross negligence in carrying out usual certified or
7 licensed nursing functions.

8

9 (4) Denial of licensure, revocation, suspension, restriction, or any other
10 disciplinary action against a health care professional license or certificate by another
11 state or territory of the United States, by any other government agency, or by another
12 California health care professional licensing board. A certified copy of the decision
13 or judgment shall be conclusive evidence of that action."

14 5. Section 118, subdivision (b) of the Code provides, in pertinent part:

15 "(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a
16 board in the department, or its suspension, forfeiture, or cancellation by order of the board or by
17 order of a court of law, or its surrender without the written consent of the board, shall not, during
18 any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its
19 authority to institute or continue a disciplinary proceeding against the licensee upon any ground
20 provided by law or to enter an order suspending or revoking the license or otherwise taking
21 disciplinary action against the licensee on any such ground."

22 6. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
23 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
24 licensee or to render a decision imposing discipline on the license.

25 7 Title 16 section 1443 of the California Code of Regulations defines incompetence as
26 "the lack of possession of or the failure to exercise that degree of learning, skill, care and
27 experience ordinarily possessed and exercised by a competent registered nurse as described in
28 Section 1443.5."

COST RECOVERY

 8 Code section 125.3 provides, in pertinent part, that the Board may request the
 administrative law judge to direct a licensee found to have committed a violation or violations of
 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
 enforcement of the case.

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Disciplinary Action by the New Jersey Board of Nursing)**

3 9 Respondent is subject to discipline pursuant to Section 2761 subdivision (a)(4) of the
4 Code on the grounds of unprofessional conduct because she was disciplined by the New Jersey
5 Board of Nursing ("New Jersey Board"), as follows:

6 10 On or about February 26, 2008, the New Jersey Board entered into a "Consent Order"
7 with Respondent in the disciplinary action entitled, *In the Matter of the License of Alice L.*
8 *Jefferson, R.N. aka Alice L. Tolbert, License # NR 110610 to Practice Nursing in the State of New*
9 *Jersey*. The New Jersey Board found, and respondent admitted, that from August 1, 2005 to
10 November 21, 2005, while working as a travelling nurse at Fastaff Nursing, Respondent falsified
11 her time cards and billed her employer for 268 hours that she did not work. Respondent claimed
12 her conduct was in response to grave financial problems and paid restitution to her employer for
13 the entire amount, \$4,814.50. The New Jersey Board found that this conduct constituted
14 dishonest and deceptive behavior in violation of New Jersey law.

15 11 For Respondent's actions from August 1, 2005 to November 21, 2005, the New
16 Jersey Board imposed, and Respondent accepted, the disciplinary action of a public reprimand. It
17 also ordered Respondent to pay its investigation costs.

18 12 Under Section 2761 subdivision (a)(4) of the Code, the New Jersey Board's
19 disciplinary action against Respondent for deliberately making false time entries is ground for the
20 California Board to take disciplinary action.

21 **SECOND CAUSE FOR DISCIPLINE**

22 **(Unprofessional Conduct)**

23 13 By committing the acts set forth in paragraphs 7-10, above, Respondent is subject to
24 discipline under Section 2761 subdivision (a) of the Code on the grounds of unprofessional
25 conduct for falsifying 268 hours of work on her time cards while working for a nursing staffing
26 agency.

27 ///

28 ///

1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
3 and that following the hearing, the Board of Registered Nursing issue a decision:

4 1. Revoking or suspending Registered Nurse License Number 688167, issued to Alice
5 Lois Jefferson-Tolbert;

6 2. Ordering Alice Lois Jefferson-Tolbert to pay the Board of Registered Nursing the
7 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
8 Professions Code Section 125.3; and,

9 3. Taking such other and further action as deemed necessary and proper.

10
11 DATED: November 15, 2010

Louise R. Bailey
LOUISE R. BAILEY, M.E.D., R.N.
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

12
13
14
15 LA2010601110
60573386.docx
16
17
18
19
20
21
22
23
24
25
26
27
28